

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANDREW GARSHOTT,

Plaintiff,

Case No. 13-

vs.

ST. CLAIR COUNTY SHERIFF'S DEPUTY O'DONNELL,
ST. CLAIR COUNTY SHERIFF'S DEPUTY MILLER, in their individual
capacities, jointly and severally,
and ST. CLAIR COUNTY, a Municipal Corporation,

Defendants.

ROMANO LAW, P.L.L.C. BY: DANIEL G. ROMANO (P49117) DAVID G. BLAKE (P73544) Attorneys for Plaintiff 23880 Woodward Avenue Pleasant Ridge, Michigan 48069 248-750-0270 / fax 248-936-2105	
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*There is no other pending or resolved civil action between these parties
or other parties arising out of the transaction or occurrence alleged in
the complaint.*

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, ANDREW GARSHOTT, by and through his attorneys,
ROMANO LAW, PLLC, and complaining against the above-named Defendants, states as
follows:

COMMON ALLEGATIONS

1. Plaintiff, Andrew Garshott, is a resident of St. Clair County, Michigan.
2. The individual Defendants are St. Clair County Sheriff's Deputies. At all times pertinent to the allegations contained in the Complaint, the individual Defendants were employees, agents

or servants of St. Clair County, and were acting within the scope of their employment as a law enforcement officers, under the color of law, cloaked with the authority which was granted to them as a law enforcement officers of the St. Clair County. Each named Defendant is being sued in his individual capacity.

3. The acts of Defendants, each of them, were undertaken willfully, intentionally, wantonly, recklessly, callously, and with deliberate indifference to the rights and welfare of the Plaintiff herein, entitling Plaintiff to exemplary damages under state law and punitive damages under federal law.

4. Insofar as the actions of the Defendants violate federally guaranteed civil and constitutional rights, they are actionable pursuant to 42 USC §1983, and attorney's fees are awardable pursuant to 42 USC §1988.

5. Insofar as Plaintiff's civil and constitutional rights under federal law are different or less expansive than Plaintiff's civil and constitutional rights under the Constitution of the State of Michigan, Plaintiff stated a claim under the Michigan Constitution.

6. Defendant, St. Clair County, is a municipal corporation within the State of Michigan and at all times did operate a sheriff's department pursuant to the statutes of the State of Michigan.

COMMON ALLEGATIONS OF FACT

7. On or about January 1, 2013, Plaintiff Andrew Garshott was at a restaurant he owns and operates in St. Clair County, Michigan.

8. At approximately 12:00 a.m., Defendants were called to the restaurant to investigate an alleged disturbance.

9. Upon arriving on the scene, Defendants utilized unreasonable and excessive force and unlawfully placed Plaintiff under arrest.

10. Defendants were belligerent, unreasonable, criminal and malicious in dealing with Plaintiff.
11. That the amount in controversy exceeds Seventy-Five Thousand Dollars and is otherwise within the jurisdiction of this Honorable Court.
12. That Plaintiff has suffered great embarrassment, humiliation and distress due to Defendants' behavior.

COUNT I
SECTION 1983 AGAINST INDIVIDUALS

13. Plaintiff realleges and restates paragraphs 1 through 12 as though fully stated herein.
14. That 42 USC Section 1983 provides for civil liability for deprivation of any right, privilege and immunity carried by the constitution and laws of the United States and the State of Michigan.
15. That at all times material herein, Defendants were acting under color of law.
16. That at all times material herein, Defendants subjected Plaintiff to deprivation of his rights, privileges and immunity secured by the Constitution of the United States and, more specifically, Amendments 4 and 14 of the laws of the United States and the State of Michigan.
17. That the above referred to customs and practices implemented by Defendants proximately caused the injuries and losses to Plaintiff as alleged herein thereby depriving Plaintiff of his rights, privileges and immunities secured by the United States Constitution and Amendment 4.

WHEREFORE, Plaintiff demands judgment against Defendants in whatever amount Plaintiff is entitled together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT II
GROSS NEGLIGENCE, WILLFUL AND WANTON MISCONDUCT

18. Plaintiff hereby realleges and restates each and every allegation contained

in Paragraph 1 through 17 as if fully stated herein.

19. That Defendants' owed duties to Plaintiff not to use unreasonable and excessive force, not to illegally detain him, to develop and follow proper police procedures and regulations, and a duty to act reasonably within the authority granted to them by the laws of the State of Michigan; duties which were all breached by the Defendants.

20. That Defendants, willfully, wantonly detained and terrorized Plaintiff, without justification, provocation or excuse and without consent.

21. As a direct and proximate result of the aforesaid mentioned gross negligence, the wanton and unreasonable and reckless conducts of the Defendants, Plaintiff sustained severe injuries and damages.

WHEREFORE, Plaintiff demands judgment against Defendants in whatever amount Plaintiff is entitled together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT III
FALSE ARREST

22. Plaintiff hereby realleges and restates each and every allegation contained in Paragraphs 1 through 22 as if fully stated herein.

23. That by reason of the wrongful acts of Defendants, Plaintiff was falsely arrested and/or detained.

WHEREFORE, Plaintiff demands judgment against Defendants in whatever amount the Plaintiff is entitled together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT IV
FALSE IMPRISONMENT

24. Plaintiff hereby realleges and restates each and every allegation contained in Paragraphs 1 through 23 as if fully stated herein.

25. That by reason of the wrongful acts of Defendants, Plaintiff was falsely imprisoned.

WHEREFORE, Plaintiff demands judgment against Defendants in whatever amount Plaintiffs is entitled together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT V
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26. Plaintiff hereby realleges and restates each and every allegation contained in Paragraphs 1 through 25 as if fully stated herein.

27. The acts of Defendants constituted an extreme, outrageous and intentional infliction of emotional distress which caused him to suffer severe and continuing emotional distress.

28. As a direct and proximate result of the acts and omissions of the Defendants, Plaintiff is suffering severe emotional distress, which includes but not limited to, shame, embarrassment, humiliation, degradation, mental anguish, all of which were caused by the Defendants' unjustified and unlawful conduct.

WHEREFORE, Plaintiffs demand judgment against Defendants in whatever amount Plaintiff is entitled together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT VI: ASSAULT AND BATTERY

29. Plaintiff hereby realleges and restates each and every allegation contained in Paragraphs 1 through 28 as if fully stated herein.

30. That Defendants did assault and batter Plaintiff.

WHEREFORE, Plaintiffs demand judgment in their favor and against the Defendants in whatever amount Plaintiff is found entitled together with costs, interest, and attorney fees.

Respectfully submitted,

By: /s/ David G. Blake
DANIEL G. ROMANO (P49117)
DAVID G. BLAKE (P73544)
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Dated: December 16, 2013

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DEMAND FOR JURY TRIAL

NOW COMES, the above-named Plaintiff, by and through his attorneys, ROMANO LAW, P.L.L.C., and hereby makes formal demand for a trial by jury of the facts and issues involved in this cause of action.

Respectfully submitted,

By: /s/ David G. Blake

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